

McGuireWoods LLP
Washington Square
1050 Connecticut Avenue N.W.
Suite 1200
Washington, DC 20036-5317
Phone: 202.857.1700
Fax: 202.857.1737
www.mcguirewoods.com

McGUIREWOODS

ORIGINAL

RECEIVED

JUL - 5 2005

Federal Communications Commission
Office of Secretary

July 5, 2005

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
c/o Natek, Inc.
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

DOCKET FILE COPY ORIGINAL

Re: Epic Touch Co.
Petition of Epic Touch Co. for Redefinition of Pioneer Telephone Association,
Inc.'s Service Area
CC Docket No. 96-45

Dear Ms. Dortch:

Epic Touch Co. ("Epic Touch"), by its undersigned attorneys, respectfully requests that the Federal Communications Commission ("FCC" or "Commission") delay issuance of a public notice soliciting comments on Epic Touch's June 27, 2005 request for redefinition of Pioneer Telephone Association, Inc.'s ("Pioneer") service area. As further explained below, such delay is warranted and necessary to permit the Kansas Corporation Commission ("KCC") time to modify its decision granting Epic Touch Eligible Telecommunications Carrier ("ETC") designation to remove the requirement that Epic Touch seek FCC concurrence with the KCC's Order regarding the redefinition of Pioneer's service area.

By way of background, on October 8, 2003, RCC Minnesota, Inc. ("RCC") petitioned the Kansas Corporation Commission ("KCC") for redefinition of certain Rural Telephone Company ("RTC") service areas in order to obtain ETC designation in those areas. RCC requested redefinition of multiple service areas, including redefinition of Pioneer's service area to the wire center level for the Richfield, Rolla, and Hugoton wire centers. The KCC issued an order on September 30, 2004, authorizing RCC's request for service area redefinition conditioned on FCC concurrence.¹ On February 8, 2005, RCC petitioned the FCC for agreement with the KCC's

¹ In the Matter of Petition of RCC Minnesota, Inc. for Designation as an Eligible Telecommunications Carrier, KCC Docket No. 04-RCCT-338-ETC, Order Granting ETC Designation and Addressing Additional Issues, (Sept. 30, 2004).

No. of Copies Made
List ABOVE

0+4

determination to redefine the RTC service areas,² and on February 22, 2005, the FCC issued a notice soliciting public comment on the request for service area redefinition.³

On November 1, 2004, Epic Touch petitioned the KCC for redefinition of certain RTC service areas in order to obtain ETC designation in those areas.⁴ The KCC granted ETC designation to Epic Touch on April 19, 2005 ("KCC Order"), but conditioned RTC service area redefinition on FCC approval.⁵ In particular, the KCC Order required Epic Touch to obtain FCC concurrence with its recommendation to redefine the Pioneer service area to the wire center level for the Richfield, Rolla, and Hugoton wire centers. Complying with the KCC Order, Epic Touch petitioned the FCC for redefinition of Pioneer's service area on June 27, 2005.⁶

Subsequent to filing the petition for service area redefinition, the FCC notified Epic Touch that redefinition of the Richfield, Rolla, and Hugoton wire centers had already been authorized due to the passage of time. Pursuant to Section 54.27(c)(3)(iii) of the Commission's rules, a service area definition proposed by a state commission is deemed approved if the FCC does not act on a petition for redefinition within 90 days of the release date of the public notice requesting public comment on the petition.⁷ Under this rule, RCC's proposed redefinition of Pioneer's service area became effective on May 23, 2005, which was 90 days from the issuance of the FCC public notice. That date is after the date of the KCC Order requiring Epic Touch to seek FCC concurrence with redefinition, but before the filing of Epic Touch's petition for redefinition of the same service areas.

After being notified by the FCC that the Commission had already "approved" redefinition of Pioneer's service area, Epic Touch requested assurance from the KCC that Epic Touch was no longer required to obtain FCC concurrence, as explicitly required by the KCC Order. Epic Touch has been told that KCC staff will file a memorandum recommending that the KCC issue an order approving redefinition of the Pioneer service area without the need for FCC approval. However, no memorandum or order has been filed or issued by the KCC, and it is Epic Touch's understanding that KCC staff will be unable to take action to recommend modification of the KCC Order until after July 11, 2005.

In light of the events described above, Epic Touch respectfully requests that the FCC delay its issuance of a Public Notice concerning the receipt of Epic Touch's petition for service area redefinition. Under its Rules, the FCC is required to issue a Public Notice of petitions

² Petition of RCC Minnesota, Inc. For Redefinition of Rural Telephone Company Service Areas, CC Docket No. 96-45, Appendix A (Feb. 8, 2005).

³ FCC Public Notice, 20 FCC Rcd 4002 (Feb. 22, 2005).

⁴ Application of Epic Touch Co. for Designation as an Eligible Telecommunications Carrier in the State of Kansas, KCC Docket No. 05-ETCZ-378-ETC (Oct. 29, 2004).

⁵ In the Matter of the Application of Epic Touch Co. for Designation as an Eligible Telecommunications Carrier, Order, 2005 Kan. PUC LEXIS 479, KCC Docket No. 05-ETCZ-378-ETC (April 19, 2005).

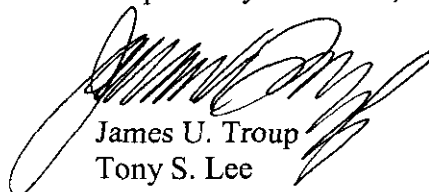
⁶ Petition of Epic Touch Co. for Redefinition of Pioneer Telephone Association, Inc.'s Service Area, CC Docket No. 96-45 (June 27, 2005).

⁷ 47 C.F.R. § 54.207(c)(3)(ii) (2005).

within 14 days of its receipt of a petition.⁸ The KCC will not be able to issue an order confirming that Epic Touch no longer is required to obtain FCC concurrence within that short time frame. No harm or prejudice will result from delaying Public Notice of Epic Touch's petition because redefinition of the service areas in question has already been authorized. Epic Touch will file a motion to withdraw its service area redefinition petition as soon as possible after the KCC issues an order modifying the KCC Order.

An original and four (4) copies of this letter are enclosed. Please date-stamp and return the extra copy of this filing to us. Should you have any questions with respect to this matter, please do not hesitate to contact the undersigned at (202) 857-1702.

Respectfully submitted,



James U. Troup
Tony S. Lee

Counsel for Epic Touch Co.

cc: Pam Slipakoff

⁸ 47 C.F.R § 54.207(c)(2) (2005).